

PATENT

0512-1306

IN THE U.S. PATENT AND TRADEMARK OFFICE

In re application of

Serge CALAMEL Conf. 3014

Application No. 10/559,680 Group 3774

Filed December 6, 2005 Examiner A. Schillinger

INSERT FOR A COTYLOID IMPLANT CUP FOR A JOINT PROSTHESIS,
COTYLOID IMPLANT AND JOINT PROSTHESIS

**REQUEST FOR RECONSIDERATION OF
NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF**

MS APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

December 12, 2008

Sir:

The Notice of November 24, 2008 indicates that the brief does not contain a correct copy of the appealed claims as an appendix thereto.

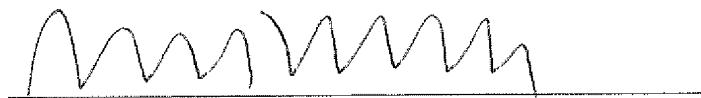
Certainly, the brief contains a claims appendix.

And certainly also, the claims in the claims appendix correspond to the claims on appeal as presented by the amendment of October 30, 2007. Another copy of that amendment is attached to this paper, with a copy of the postcard receipt proving its receipt by the Patent Office.

On the other hand, if the Examiner detects some discrepancy, we would be grateful if that discrepancy were pointed out with precision, as we find none.

Respectfully submitted,

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RJP/fb

0512-1306

THE STAMP OF THE PATENT OFFICE MAIL HEREON ACKNOWLEDGES THE RECEIPT OF THE BELOW-IDENTIFIED DOCUMENT ON THE DATE INDICATED BY SUCH STAMP.

In re: Serge CALAMEL

S.N. 10/559,680 Group 3738

AMENDMENT in response to O.A. of July 30, 2007

RJP/lrs
DUE: 10/30/07



PATENT
0512-1306

IN THE U.S. PATENT AND TRADEMARK OFFICE

In re application of

Serge CALAMEL Conf. 3014

Application No. 10/559,680 Group 3738

Filed December 6, 2005 Examiner A. Schillinger

INSERT FOR A COTYLOID IMPLANT CUP FOR A JOINT PROSTHESIS,
COTYLOID IMPLANT AND JOINT PROSTHESIS

AMENDMENT

Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

October 30, 2007

Sir:

In response to the Official Action of July 30, 2007,
please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing
of claims which begins on page 2 of this paper.

Remarks begin on page 6 of this paper.

AMENDMENTS TO THE CLAIMS:

This listing of claims will replace all prior versions, and listings, of claims in the application:

LISTING OF CLAIMS:

1-14. (canceled)

15. (currently amended) An acetabular implant cup insert for a joint prosthesis, the insert comprising a metal shell and a polymer lining lining the inside space of said shell, a receptacle for a prosthetic head being formed in the lining, said shell presenting on its inside space means for preventing said lining being extracted from the shell and means for preventing the lining turning in the shell, wherein said means for preventing the lining being extracted comprise a stud disposed on an end wall of the posterior portion of the inside space of the shell, said stud having at least one groove or lip with which the lining interfits to lock the lining on the shell.

16. (previously presented) The insert according to claim 15, wherein said means for preventing extraction of said lining include at least one lip.

17. (previously presented) The insert according to claim 15, wherein said means for preventing said lining being extracted include at least one groove.

18. (previously presented) The insert according to claim 15, wherein said means for preventing the lining from turning comprise projections formed on the surface of the wall defining the inside space of the shell.

19. (previously presented) The insert according to claim 18, wherein said projections are ribs extending over all or a fraction of the height of the inside space of the shell.

20. (previously presented) The insert according to claim 15, wherein said means for preventing the lining from turning comprise depressions formed in the surface of the wall defining the inside space of the shell.

21. (previously presented) The insert according to claim 16, wherein said means for preventing the lining from turning comprise projections formed on the surface of the wall defining the inside space of the shell, and wherein projections are formed on the lip.

22. (previously presented) The insert according to claim 16, wherein said means for preventing the lining from turning comprise depressions formed in the surface of the wall defining the inside space of the shell, and wherein depressions are formed in the lip.

23. (previously presented) The insert according to claim 15, wherein the anterior portion of said shell presents a conical shape.

24. (previously presented) The insert according to claim 15, wherein the wall of the receptacle is covered in ceramic.

25. (previously presented) The insert according to claim 15, wherein said lining is obtained by an operation of thermocompressing said polymer in said inside space of the shell, followed by a machining operation.

26. (previously presented) The insert according to claim 15, wherein said lining is obtained by prior shaping, and wherein it is put into place by being impacted into the shell.

27. (currently amended) An acetabular implant ~~of the~~ type comprising a cup for being fastened in the pelvis or a shoulder blade of a patient, and an insert lining the inside of said cup in order to receive a prosthetic head, wherein the insert is ~~of the~~ type according to claim 15.

28. (currently amended) A joint prosthesis ~~of the type~~ comprising an acetabular implant and a prosthetic head, wherein said implant is ~~of the type~~ according to claim 27.

29. (new) The insert according to claim 15, wherein said stud is disposed centrally of the shell.

30. (new) The insert according to claim 15, wherein said stud is formed integrally with said shell.

REMARKS

The suggested change in claim 28 is noted with thanks. However, what claim 28 recites is "a joint prosthesis", which had not been previously recited. Therefore, it would be improper under 35 USC §112, second paragraph, to refer to --the joint prosthesis--.

However, claims 27 and 28 do indeed contain an informality, which is the phrase "of the type", canceled herewith.

Claim 15 has been amended so as to sharpen its definition of the invention relative to the applied references. Reconsideration is accordingly respectfully requested, for the rejection of claim 15 as anticipated by or unpatentable over WILLI, alone or in combination with other references of record.

The rejection falls down on WILLI.

As now claimed, it is required that the stud of the present invention be disposed on an end wall of the posterior portion of the inside space of the shell. This is the exact language of page 4, lines 24-26 of our specification and so has ample basis in our disclosure, as well as in the drawings where this feature is clearly illustrated.

By contrast, in WILLI, the part 8 is a part which is initially separate and is added to the two parts of the shells. It is a peripheral feature of the assembly of WILLI and does not correspond to the structure of the present invention. Any

previous accidental reading of claim 15 on WILLI is accordingly corrected by the present amendment.

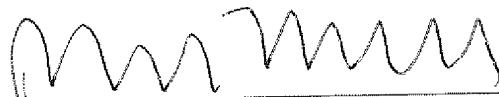
Notice also, in the present amendment, new claims 29 and 30, which further distinguish the present invention over WILLI, alone or in combination with any other reference of record. Thus, new claim 29 locates the stud of the present invention exactly; whilst new claim 30 recites its integral relationship to the metal shell. Neither of these features can be found among the cited references.

In view of the present amendment and the foregoing remarks, therefore, it is believed that this application has been placed in condition for allowance, and reconsideration and allowance are respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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